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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 39th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 25 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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The meeting was called to order at 10.35 a.m.

ORGANIZATION OF WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1991/5 and Add.1)

1. The CHAIRMAN informed the Commission that it had to decide under which agenda item it would consider the report of Mr. Tomuschat, the Independent Expert on the human rights situation in Guatemala. Pursuant to decision 1990/80, adopted at its forty-sixth session, the Commission had decided to consider the question under an item of the agenda to be determined in the light of the Expert's report and of the situation of human rights and fundamental freedoms in Guatemala. By decision 1990/244, the Economic and Social Council had endorsed the Commission's recommendation. Since that was a question relating to the organization of work, he explained that it could be considered only by the members of the Commission and the delegation of the State directly concerned, namely, the Guatemalan delegation.

2. Mr. ARTEAGA (Venezuela) said that the countries of the Rio Group - Argentina, Brazil, Colombia, Mexico, Peru and Venezuela - were closely following the political, economic and social situation in Guatemala. Despite numerous difficulties, that country had spared no effort in recent years to strengthen democracy, prepare the ground for national reconciliation and promote respect for human rights. Nevertheless, the Rio Group countries were deeply distressed by the human rights violations that were continuing in Guatemala. However, they believed the Commission should have confidence in the new constitutional Government and give it the opportunity of instituting emergency measures, in accordance with President Serrano's commitment to guaranteeing the full exercise of human rights. Given those aspirations and that determination, the countries of the Group agreed with Mr. Tomuschat that the Commission should continue to provide Guatemala with advisory services, and therefore suggested that the human rights situation in that country should be examined under agenda item 21. They requested that their proposal should be voted on by roll call.

3. Mr. HESSEL (France) said that in a spirit of friendship, trust and cooperation towards the new Guatemalan Government, which had courageously undertaken to ensure respect for human rights and which, to that end, needed the international community's entire support, and in the light of events the previous year, his delegation proposed that the Commission should consider the human rights situation in Guatemala under agenda item 12, since that would in no way prevent the Guatemalan Government from availing itself of the advisory services programme, if it needed it.

4. Mr. REGAZZOLI (Argentina) said that his delegation endorsed the Venezuelan representative's proposal. Argentina would continue to follow the political situation in Guatemala very closely, since it was convinced that peace meant not only absence of conflict, but also development, social justice, education and health. He noted that it was the first time in 40 years that a democratic Government was being succeeded by another democratic Government. President Serrano, who had just been elected, had been the President and driving force of the National Reconciliation Commission and had participated in all the peace negotiations. Moreover, barely 46 days after his election, President Serrano had demonstrated that the Government was determined to defend human rights, at a time when the country was experiencing a serious crisis and confrontations that would make history. His delegation

believed that only by strengthening fundamental freedoms would the Guatemalan Government succeed in restoring peace and ending terrible human rights violations. For that reason, the Commission should continue to provide it with advisory services for one year.

5. Mr. PEREIRA BURGOS (Panama) said that the Panamanian Government was concerned by the serious violations of human rights and fundamental freedoms taking place in Guatemala but noted that the Government and people of that country wished to remedy the situation. He would therefore prefer the question of human rights in Guatemala to be considered under item 12 and not item 21, so that the question could be dealt with in the most thorough and objective way possible. Its consideration under item 12 would certainly not mean that Guatemala would no longer benefit from United Nations cooperation in the areas in which it was required. Panama, where the military and civilians had been fighting for power for 20 years, was aware that the Guatemalan Government must above all receive all the support the international community could offer in order to fashion a society where human rights would be fully respected.

6. Mr. BOSSUYT (Belgium) said that his delegation endorsed the French delegation's proposal to consider the human rights situation in Guatemala under item 12. Referring to paragraph 15 of resolution 1990/80, adopted by the Commission at its forty-sixth session, he noted that two elements were relevant in determining the agenda item under which the question should be considered: the report of the Independent Expert and the situation of human rights and fundamental freedoms in Guatemala. Regarding Mr. Tomuschat's report (E/CN.4/1991/5 and Add.1), he noted that only 7 of the 169 paragraphs in the report concerned item 21. The same was true of the addendum. As for the situation of human rights and fundamental freedoms in Guatemala, all speakers had felt that it was disturbing. He did not believe that the Commission should take decisions on the basis of the new Government's stated intentions or that consideration of the question under item 12 would be a sign of distrust. He acknowledged that the Government's intentions were an important element that should be borne in mind in studying the human rights situation in Guatemala, but for the time being the only two elements that should be taken into consideration were the Independent Expert's report and the situation of human rights and fundamental freedoms in Guatemala.

7. The integrity of the Commission's procedures was also at issue. There was a tendency to treat item 21 as a subdivision of item 12; that created disturbing ambiguity and confusion and even distorted item 21. That item, under which the question of assistance requested by Governments of the Secretary-General of the United Nations was considered had nothing to do with the study of the human rights situation in a country by a special rapporteur or independent expert, which was the subject of item 12. Since according to its title, item 12 covered the question of the violation of human rights and fundamental freedoms "in any part of the world", Guatemala should not be excluded. Thus there was no reason not to consider the situation in that country under item 12.

8. Mr. MESTRE (Colombia) thought that the question of assistance to Guatemala in the field of human rights should be considered under item 21. That country's Government had undertaken to continue to cooperate fully with the Commission. If the situation in Guatemala, which certainly had to be improved, regarding the administration of justice in particular, was to be

monitored appropriately, the Commission should endorse Venezuela's proposal, out of concern for fairness towards a new, democratically-elected Government.

9. Mrs. ANDREYCHUK (Canada) agreed with the French delegation that the question should be considered under item 12. Although it was gratifying that democratic presidential elections had recently been held in Guatemala and that a national reconciliation process had begun, the increase in violence in that country - as demonstrated in particular by the massacres in 1990 - remained deeply disturbing. Her delegation therefore endorsed the remarks of the Belgian and French delegations and hoped that the Guatemalan authorities' action in the field of human rights would continue to be monitored closely. Consideration of the matter under item 12 would enable the Guatemalan Government to demonstrate its sincere desire to improve the situation.

10. Mr. WALKER (Australia), speaking on a point of order, said he did not quite understand what the Commission was being called on to decide. Was it a question of choosing between two different proposals, or of deciding whether or not to deal with the question of human rights assistance to Guatemala?

11. Mr. STROHAL (Austria), speaking on a point of order, said that the French delegation had proposed an amendment to Venezuela's initial proposal. According to rule 64 of the Commission's rules of procedure, that amendment had to be voted on first.

12. The CHAIRMAN explained that since the discussion taking place was a procedural one, it was not a question of an amendment. The Commission simply had two proposals before it submitted by Venezuela and France respectively.

13. Mr. HELLER (Mexico) said that the Venezuelan delegation had made a very specific proposal that should be put to a vote immediately. If it was rejected the Commission could vote on the second proposal.

14. Mr. de RIVERO (Peru) endorsed the remarks of the representative of Mexico as well as the idea of voting by roll-call on the Venezuelan proposal. Rule 65 of the rules of procedure stated that if two or more proposals, other than amendments, related to the same question, they would, unless the Commission decided otherwise, be voted on in the order in which they had been submitted.

15. Mr. HESSEL (France), speaking in explanation of vote before the vote, said that if the question was dealt with under item 12, that did not mean that Guatemala would be refused the advisory assistance considered under item 21.

16. Mr. BOSSUYT (Belgium), speaking in explanation of vote before the vote, said that the purpose of the French proposal was to enable the Independent Expert, Mr. Tomuschat, to present his report under item 12. Obviously the question of Guatemala could also be dealt with when item 21 was considered.

17. At the request of the representative of Venezuela, a vote was taken by roll-call on the proposal that the question of human rights assistance to Guatemala should be considered under agenda item 21.

18. Italy, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Brazil, Burundi, China, Colombia, Gambia, India, Indonesia, Iraq, Madagascar, Mauritania, Mexico, Morocco, Pakistan, Peru, Philippines, Senegal, Somalia, Swaziland, Venezuela and Yugoslavia.

Against: Australia, Austria, Belgium, Canada, Czechoslovakia, France, Germany, Hungary, Italy, Japan, Panama, Portugal, Sweden, Ukrainian Soviet Socialist Republic, United States of America and Zambia.

Abstaining: Cuba, Cyprus, Ethiopia, Ghana and Union of Soviet Socialst Republics.

19. The Venezuelan proposal was adopted by 21 votes to 16, with 5 abstentions.

20. Mr. ROA (Cuba), speaking in explanation of vote, said that the proposal just adopted was in keeping with the decision taken by the Commission at its previous session. However, since it was simply a question of procedure and since certain aspects of the human rights situation in Guatemala had been examined under item 12 for years, his delegation had abstained.

21. Mr. WALKER (Australia) said he had voted against the Venezuelan proposal not because the question of advisory services was not relevant in Guatemala's case, but because the human rights situation in a country should be examined only under item 12.

22. Mr. CHABALA (Zambia) stated that he had voted against the Venezuelan proposal for humanitarian reasons, and not for political reasons or because he lacked confidence in the new Guatemalan Government. On the contrary, it was to help that Government that he believed it would be wiser to deal with the matter under item 12.

23. Mr. de RIVERO (Peru) explained that he had voted against the Venezuelan proposal for three reasons. First, the new Guatemalan Government, brought into power through a democratic process, needed time to improve the human rights situation. Second, that Government intended to allow the civilian authorities to look into any abuses perpetrated by the forces of order. Third, his delegation believed that the Commission would see at its following session that inquiries had been opened into possible abuses and that those responsible had been punished.

24. Mr. PEREIRA BURGOS (Panama) said he had voted against the Venezuelan proposal because human rights violations and the defence of democracy, far from being the strictly internal problems of a particular country, were the concern of the entire international community. Unfortunately, the information presented by the Independent Expert, non-governmental organizations and other sources indicated that violations of human rights and fundamental freedoms in Guatemala had been continuing for years, despite all the efforts by the Commission and some of that country's authorities to promote democracy and civil rights. If the Commission wished to help Governments to comply with the Charter of the United Nations and the other human rights instruments, it should dedramatize the decision it had just taken and place it in context.

Had the human rights situation in Guatemala been considered under item 12, the Commission would certainly have been able to make a comprehensive and thorough evaluation.

25. Panama's negative vote did not mean that it refused to support the Guatemalan Government or that it endorsed internal or external violence. It was to be hoped that, with the help of the international community and the will to take action, the problems facing Guatemala could be overcome.

26. Mr. SENE (Senegal) said that his delegation had voted in favour of the Venezuelan proposal to examine the question of assistance to Guatemala under item 21 simply in the interest of continuity. That did not exclude the possibility that any delegation that wished to do so might approach the question from the point of view of a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and the relevant Economic and Social Council resolutions. Moreover, the problem at issue was not specific to a single country or region, but one that concerned the entire international community. The Commission was therefore trying to give the new Government a chance, but also setting a date to study the question the following year in full knowledge of the facts. His delegation's vote had been motivated by the desire to help the new Government to progress along the path to democracy and respect for human rights.

27. Mr. PAGAC (Czechoslovakia) stated that, in voting against the Venezuelan proposal, Czechoslovakia had certainly not wished to deprive the Guatemalan Government of the considerable additional support provided by assistance under the advisory services.

28. Mr. MOHAMED (Somalia) said he had voted in favour of the Venezuelan proposal, which covered not only a procedural question, but also an important question of substance. Responsibility for the implementation of international instruments fell to Governments, which were accountable for it. The Guatemalan authorities therefore had to be encouraged to take into consideration the human rights problems in that country.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS;

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT (agenda item 12) (continued) (E/CN.4/1991/3; E/CN.4/1991/4; E/CN.4/1991/27; E/CN.4/1991/28; E/CN.4/1991/29; E/CN.4/1991/30; E/CN.4/1991/31; E/CN.4/1991/32; E/CN.4/1991/33 and Add.1; E/CN.4/1991/34; E/CN.4/1991/36; E/CN.4/1991/37; E/CN.4/1991/69; E/CN.4/1991/70; E/CN.4/1991/74; E/CN.4/1991/77; E/CN.4/1991/NGO/5; E/CN.4/1991/NGO/27; E/CN.4/1991/NGO/29; E/CN.4/1991/NGO/30; E/CN.4/1991/NGO/31; E/CN.4/1991/NGO/34; E/CN.4/1991/NGO/35; S/21907; A/45/567; A/45/578; A/45/607; A/45/630; A/45/664; A/45/697; E/CN.4/1990/22 and Add.1; E/CN.4/1990/24; E/CN.4/1990/25; E/CN.4/1990/26; E/CN.4/1990/28 and Add.1)

29. Mr. OMAR (Observer for the Libyan Arab Jamahiriya), speaking in exercise of the right of reply, said he would like to dispel a misunderstanding. For the benefit of the delegations of Nigeria and Zaire, he explained that

although in its statement of 21 February 1991 his delegation had said that United States Air Force planes transporting political prisoners abducted from N'Djamena had made stopovers in Nigeria and Zaire, the Libyan authorities knew perfectly well that those prisoners had been under United States control at that point. They were also not unaware of the pressure being brought to bear by the United States and appreciated Zaire's efforts to facilitate the role of the Red Crescent. His delegation wished to stress that the legal, political and humanitarian problems raised by those prisoners were closely linked to the Americans' behaviour, which was a gross violation of the Geneva Convention Relative to the Treatment of Prisoners of War, and especially article 5.

30. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, said that he would not reply to the Saudi delegation, for Saudi Arabia was at present under United States tutelage and therefore not a completely sovereign State. He would also like to point out that Saudi Arabia had neither adopted nor ratified any international human rights instruments and said that the Commission should examine the human rights situation in a country which, on the threshold of the twenty-first century, had still not ratified any conventions in that field.

31. Turning to the Bahrain delegation's statement on human rights, he noted that the Permanent Representative of Bahrain to the United Nations Office at Geneva had been recalled five months earlier by the Government and was said to be in prison for political reasons. He invited the Commission to request the Government of Bahrain to provide clarification in that connection. He also wondered whether a State that imprisoned its representative to the Commission was entitled to speak of human rights.

32. Mr. SIBAL (India), speaking in exercise of the right of reply, said that armed militants trained by Pakistan, and not the security forces, were responsible for the climate of terror and violence in Jammu and Kashmir. The militants were deliberately operating in crowded areas to maximize the number of civilian casualities. In a number of cases they had set fires and committed murders that had been attributed to the security forces, which were under strict instructions to spare civilians as far as possible. All allegations against the security forces had been investigated, and most of them had been found to be inaccurate. Whenever any allegation appeared to be true, disciplinary action was initiated against those responsible.

33. The local population had often been coerced into speaking against the security forces to journalists and human rights organizations, and the local media in Jammu and Kashmir were also not able freely to broadcast information. The Commission should instruct Pakistan to stop training militants and encouraging them to infiltrate India to engage in terrorist and subversive activities. He also hoped that Pakistan would cease its interference in the internal affairs of India, help to bring about good-neighbourly relations in conformity with the Simla Agreement and recognize the need for all developing countries to work for the good of their people rather than indulge in perilous and malicious activities.

34. Mr. KAMAL (Pakistan), speaking in exercise of the right of reply, again called on India to accept the proposal for an independent panel of Commission members to investigate its allegations of a Pakistani role in the uprising in Kashmir. Far from wishing to give lessons in democracy to the "largest democracy in the world", he simply wanted to explain that in

Pakistan's understanding, democracy was respect for human rights, including the right to self-determination and the right to life. That concept was not compatible with the annexation of territories or the policy of resorting to weapons, curfews, rape and killings being practised by India in Kashmir. As for the "democratic structures" in the annexed territory of Kashmir, he stressed that there was no local assembly at the moment and that orders came directly from New Delhi, which gave the Indian security forces vast powers to terrorize the people of Kashmir. His delegation again called upon India to cease its repressive actions in Kashmir, and it looked forward to a peaceful resolution of that question, in keeping with the relevant Security Council resolutions and the spirit of the Simla Agreement.

35. Mr. KOUPTCHICHINE (Ukrainian Soviet Socialist Republic) said he deplored the fact that, despite numerous resolutions of United Nations bodies and other organizations, the situation in Cyprus remained disturbing and was therefore still on the Commission's agenda. In its resolution 1987/50, the most recent on that question, the Commission on Human Rights had reaffirmed the need for the full restoration of all human rights to the population of Cyprus, in particular to the refugees, and had called for the tracing of and accounting for missing persons in Cyprus without delay; finally, it had qualified attempts to settle any part of Varosha by people other than its inhabitants as illegal.

36. Unfortunately, those appeals had been ignored. His delegation was convinced that human rights violations in Cyprus were the result of interference by outside forces in the internal affairs of a sovereign State, and that it should be ended. Commission resolution 1987/50 must be fully implemented. Attempts to hamper the good offices mission of the Secretary-General of the United Nations to establish a constructive dialogue between the parties to the conflict should also be condemned, as had been done by both the European Parliament and the Council of Europe.

37. In order to settle the problem in Cyprus, the negotiation process between the two communities should be encouraged on the basis of generally recognized principles of international law and of the provisions of the relevant United Nations resolutions; foreign forces should be withdrawn from the territory of the Republic and refugees allowed to return in complete safety; foreign populations should be prevented from settling in certain parts of Cyprus with the help of the armed forces; freedom of movement, freedom to return to their country and freedom of settlement should be ensured for all Cypriots throughout the territory; the culture of the occupied portion, including its churches and historical monuments, should be respected; all data available on the fate of disappeared persons should be widely disseminated and finally, and perhaps above all, Cyprus should be recognized as constituting a single, non-aligned State, free from all foreign interference and demilitarized, with the agreement of the legitimate Government. The implementation of all those measures would lead to a comprehensive solution of the problem and facilitate the restoration of human rights in Cyprus. It would safeguard "the independence, sovereignty, territorial integrity and non-alignment of the country, and exclude union in whole or in part with any other country and any form of partition or of secession", as requested by the Security Council in its resolution 649/1990, quoted in paragraph 6 of document E/CN.4/1991/27.

38. Mr. WIRYONO (Indonesia) said that the consideration of item 12 was an important component in the international community's efforts to strengthen the mechanism - bodies, treaties, working groups, special rapporteurs - for monitoring human rights violations throughout the world. Although references were often made to the applicability of international instruments, there was as yet no consensus on the indivisibility of human rights as a concept. Certain rights were defended more vigorously than others. The term "gross violations" was used most often to refer to civil and political rights rather than social and cultural rights, one apparent reason being the attention given to them in the media. That attitude also prevailed in the Commission's deliberations on item 12. Taking the right to life as an example, concern about the death penalty was more pronounced than concern about the homeless dying in the freezing winter or boat people at risk of drowning.

39. The public procedure was aimed at bringing to the attention of the international community any situation that reflected gross violations of human rights anywhere in the world. It was much more flexible than the procedure for examining communications laid down in Economic and Social Council resolution 1503 (XLVIII). As a result, in many cases the allegations made before the Commission under agenda item 12 did not always meet the criterion of being "reliably attested violations", and those who made them were not required to provide proof. In addition, information was often exaggerated in order to attract public attention, at the expense of justice. Such practices were not conducive to the constructive dialogue that was needed to build the world culture of human rights. Furthermore, the Commission's debates under item 12 were at times manipulated for political or other purposes. It was therefore high time to institute a procedure along the lines of Economic and Social Council resolution 1503 (XLVIII) and resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

40. The level of participation of the non-governmental organizations in the Commission's work should be increased further, for they widened the Commission's perspective concerning alleged violations occurring in numerous regions of the world. The balance of participation should also be improved. Two-thirds of the NGOs that participated in the Commission's work were based in Europe and the United States and were naturally more sensitive to issues outside their own region. However, given the distances involved and the lack of first-hand knowledge of the regions concerned, they could not always act as effectively as the local NGOs. The latter should therefore be given the opportunity to participate.

41. Mr. HELLER (Mexico) noted that consideration of the human rights situation and the treatment of human rights violations in various regions of the world had become a fundamental aspect of current developments in international relations. The competent bodies now had the opportunity to fulfil their original mandate and prove that a humanitarian, constructive and impartial spirit had enabled them to thwart recent attempts to turn them into forums for bilateral and deliberately selective controversies. The world was now aware of the consistent patterns of gross violations of human rights wherever they occurred, damaging the internal harmony of a country as well as regional or international peace and security.

42. Détente and recent events in Central Europe, the progress made in finding negotiated solutions to various internal and regional conflicts and the restoration of certain democratic régimes were steps towards full respect

for human rights. It was increasingly recognized that the enjoyment of human rights, the primacy of law and democratization could not be dissociated. International cooperation had acquired new meaning in that area, but it could be effective only if peoples' right to self-determination was respected.

43. However, human rights violations should not be considered a chronic disease of the developing world and of political systems felt to be outdated. In countries whose economic level and legal and political structures placed them among the developed countries, practices persisted that were incompatible with the fundamental rights of certain strata of the population, and there existed forms of intolerance and tendencies that ran contrary to the principles enshrined in the law, such as xenophobia, racism and nationalism in its most perverse form. Protection of human rights was therefore the responsibility of the international community as a whole.

44. Human rights violations that accompanied breaches of international law unfortunately still occurred. As the President of Mexico had stated before the United Nations General Assembly, although respect for human rights was the most powerful idea of the modern era, invasion was the most sophisticated way of violating them. In Kuwait, occupied by Iraq, people's rights and fundamental freedoms had been trampled underfoot. And yet humanitarian law must remain inviolate, even in the extreme situations that all armed conflicts created.

45. In Cyprus, respect for independence, sovereignty and territorial integrity was the prerequisite for the full exercise of human rights, jeopardized by the occupation of a portion of the territory. Mexico had supported the efforts of the Secretary-General of the United Nations to reach a just and lasting solution to the problem, but the political will of the parties to the conflict and the implementation of relevant United Nations resolutions were the essential components of a political settlement that would make possible the full restoration of the fundamental rights and freedoms of all Cypriots.

46. In Afghanistan, for want of a negotiated political solution the human rights situation had not really changed, and many problems of humanitarian law persisted, such as those of the 5 million refugees and the numerous civilian victims of the conflict between the Government and the opposition forces. In addition, the Special Rapporteur had reported acts of terrorism and many summary executions conducted by armed opposition groups in September and October 1990 in the Province of Uruzgan.

47. The Government of the Islamic Republic of Iran had indeed cooperated with the Special Representative, but information on executions of political opponents and the living conditions of detainees revealed that serious abuses were being committed in that country, and that they were incompatible with the international human rights instruments which it had signed.

48. In Romania, the strengthening of the institutional framework created following the May 1990 elections would promote respect for the human rights of the population, including the minorities, and the determination of the Romanian Government to continue cooperating with the Special Rapporteur was to be commended.

49. Although certain countries were making efforts to reconcile the search for the truth with the strengthening of their constitutional régime, others must find new forms of government while facing the challenge of development under conditions made extremely difficult by political violence and a very poor human rights record. International bodies then found themselves in a dilemma: should they help to create a context favourable to respect for human rights or condemn the most flagrant cases, when such condemnation might not necessarily lead to a significant improvement?

50. That was the difficulty presented by El Salvador. As indicated in the Special Representative's report, the situation in that country was complex, with the armed conflict undermining economic and social rights, creating civilian victims and preventing the judiciary from functioning. The General Assembly and the Commission had advocated a negotiated political solution as a prerequisite for the genuine restoration of human rights. With the participation of the Secretary-General of the United Nations, President Cristiani and the Frente Farabundo Martí para la Liberación Nacional had begun negotiations in April that had led to the signature on 26 July 1990 of a partial human rights agreement. In addition, the parties had agreed to entrust a United Nations mission with the responsibility of monitoring the implementation of that agreement. But the agreement would be viable only if the negotiations were also successful in other areas: armed forces, judicial system, electoral system, constitutional reform and economic and social situation. The negotiation process must therefore be encouraged.

51. In Haiti, after years of instability and dictatorship, the people's determination had been rewarded and democratic institutions set up. The new Haitian Government needed the international community's support in view of the obstacles that had prevented the exercise of human rights in that country.

52. The case of Guatemala had received much attention from the United Nations, which had supported the Government's constructive initiatives but remained disturbed by the continuation of serious human rights violations. The Guatemalan Government, which was benefiting from advisory services in the field of human rights, continued to cooperate with the Commission and with the Independent Expert, Mr. Tomuschat, who was closely following the development of the situation in that country, in conformity with resolution 1990/80.

53. President Serrano's new Government had pledged to guarantee respect for human rights and bring about national reconciliation. In that connection, mention should be made of the conversations taking place under the auspices of the National Reconciliation Commission among various sectors of Guatemalan society and the Guatemalan National Revolutionary Union, in the presence of a representative of the Secretary-General of the United Nations. The international community must continue to encourage that process as the only means of satisfying the Guatemalan people's aspirations for internal peace and effective enjoyment of human rights and fundamental freedoms.

54. Cooperation between Governments and the United Nations in an atmosphere of mutual respect was the only way of maintaining the objective criteria that must guide the Commission in its work.

55. Mr. WEERAKOON (Observer for Sri Lanka) recalled that his country, whose long-standing policy of cooperation with United Nations human rights bodies would continue, had had to cope with two interlocking crises: one in the south, where the violence of the JVP (Janatha Vimukti Peramuna) movement had challenged established democratic structures, and another in the north, where the LTTE (Liberation Tigers of Tamil Eelam) had sought to establish a separate State. In 1989 and 1990, the Government had had to move resolutely against attempts to destroy both democracy and the unity of Sri Lanka, after trying in vain to reach a peaceful solution.

56. The JVP had taken the Sri Lankan authorities' decision to release 15,000 detainees and invitation to the JVP to the negotiating table as a sign of weakness. It had murdered thousands of people - "traitors", prisoners, security services personnel and their families, members of political parties - and had generally sought to destabilize the country. The situation had returned to normal in the south, but there had been heavy losses of human lives on both sides. Of the thousands of prisoners, some had been released, some were undergoing community-based rehabilitation and some were in detention awaiting trial through the normal court system. The Government had initiated an economic regeneration process to deal with the root causes of the insurgency.

57. In the north, the Indian Peace-Keeping Force (IPKF) had attempted to disarm the LTTE under the terms of the Indo-Sri Lanka Agreement. After its departure, the Government had begun negotiations with the LTTE with a view to a peaceful settlement, but the LTTE had reacted with violence and terror. The Government had therefore had to respond firmly to deal with the challenge to the integrity of the State and to protect the population. Regrettably, the conflict raged again, with loss of life to Tamils, Muslims and Sinhalese.

58. In a democracy, the Government was accountable to the people for the actions it took. That accountability was ensured in Sri Lanka through the democratic mechanisms that had long been a part of the country's life: the National Parliament; the press, both local and foreign, which was uncensored; non-governmental organizations; a Committee of Parliamentarians dealing with human rights issues; the Supreme Court, which had begun hearing fundamental rights violation pleas from persons in detention camps; the Court of Appeal, which currently had applications for habeas corpus before it; a Human Rights Task Force composed of senior public officers, which was monitoring cases of excesses committed by the members of the security forces; an Independent Commission of Inquiry appointed in January to look into cases of disappearance and Peace Committees, bringing together representatives of the police, churches and schools. In addition, ICRC had been helping to trace missing persons since November 1989, and the Government had invited the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on summary or arbitrary executions to visit the country during 1991. Finally, an amendment to the Constitution to expand and strengthen fundamental rights had been placed before Parliament in December 1990.

59. He pointed out that the current conflict in the north of the country was not aimed against the Tamil people but against the LTTE, a well-armed and well-financed - especially from abroad - group committed to the establishment of a separate mono-ethnic State. Following the temporary cease-fire at the beginning of 1991, the Government had called upon the LTTE to resume the

talks. Such talks would be with the leader of the military wing of that movement and would involve representatives of all political parties, including the six Tamil parties now in the All-Party Conference (APC).

60. If the LTTE accepted that invitation, the Government would suspend its operations against it. The Government had also called upon the LTTE to release all its hostages, stop recruiting young people for combat, stop terrorizing civilians and allow humanitarian access to all prisoners in its custody. Unfortunately, the LTTE preferred to pursue its goals through violence.

61. In the meantime, within the APC, six Tamil parties and two Muslim parties were developing proposals for power sharing in the northern and eastern provinces. Those arrangements also contained recommendations for increased devolution of powers to the Provincial Councils. That was a viable political option, which together with the military strategy, should make it possible to restore peace in the provinces of northern and eastern Sri Lanka.

62. Mr. LITTMAN (World Union for Progressive Judaism) said that, like the representatives of other NGOs, he might have drawn the Commission's attention to various human rights violations throughout the world, including Cyprus and Kuwait, a Member State of the United Nations that had been brutally conquered and occupied by another country and was at present being liberated. Yet he had already spoken repeatedly on such issues as international terrorism, hostage-taking and arbitrary death sentences against political dissidents, writers and publishers in particular. Yet why should anything more be added since most Governments and their representatives knew full well which States and which terrorist organizations were behind those crimes against humanity that had never been roundly condemned by any Commission resolution? All could be ended by going to the very roots of that industry of indiscriminate death and destruction, perhaps at an international conference, and rescinding the "arrangements" made in order to spare a particular potentate or Government.

63. Over the past four years, the World Union for Progressive Judaism had repeatedly spoken before the Commission and Sub-Commission of the problem of the Jewish minority in Syria, and in particular about some 200 single Jewish women being held in that country against their will, despite the Syrian Government's claim that it respected all religions including the Jewish religion and that no kind of discrimination against Jews existed. It should be recalled that on 15 August 1990, one of the Sub-Commission experts, Mrs. Claire Palley, had asked the Sub-Commission to verify the truth of that statement, and in particular whether those young women would be permitted to emigrate within the following six months. The World Union for Progressive Judaism had therefore appealed to the Commission to follow up that expert's request and authorize the Sub-Commission to name a special rapporteur to inquire into the situation of the Jewish minority in Syria, particularly the approximately 200 single Jewish women who wished to leave their country of birth for the purpose of marrying abroad a person of their faith. Also on the subject of Syria, he hoped that the representative of that country, who had been responsible for an incident at a previous meeting of the Commission, would ultimately understand her mistake and see the truth.

64. Finally, in view of the tragedy presently taking place in the Gulf, where a tyrant had unleashed an ecological disaster, he invited participants to re-read chapter 34 of the Book of Isaiah, in which Isaiah predicted the

destruction of Bozrah and Edom (Arabiq), a remarkable prophecy in view of the fact that if the 200 oil wells deliberately set on fire in Kuwait were not quickly capped, they might burn for a hundred years. On 2 April 1990, Saddam Hussein had threatened to incinerate half of Israel and had renewed that threat several times since then, in particular at the opening session of the Arab League Conference in Baghdad, called in order to launch a world campaign to stop Soviet Jews from emigrating to Israel. Less than one year after the first menace to Israel, he felt obliged, as a historian, to point out that chapter 34 of the Book of Isaiah also mentioned the year of recompenses for Zion.

65. Mr. AL NOURI (Observer for Kuwait), speaking in exercise of the right of reply, said that all the allegations made by the representative of Iraq were false and that the sources he had cited were not verifiable. What was a fact, however, was that Iraq had used chemical weapons against Iran and the Kurdish people and had threatened to use them during the Gulf war in violation of international law. Furthermore, everyone knew that the National Council instituted in Kuwait since that country's independence worked with complete integrity and had certainly not accepted the destruction of the region as the price to pay for Kuwait's liberation. It should not be forgotten that 300,000 Kuwaitis were still in the country.

66. He would also like to point out that not only the Kuwaitis but also all foreigners working in Kuwait had enjoyed the country's wealth, and that in the past 20 years, Kuwait had devoted 7.8 per cent of its national income to assistance to third world countries. The economic situation in Iraq, however, had not improved, and the Iraqi people did not even earn a strict minimum, despite the fact that the country possessed very fertile land and had very substantial oil revenues. If the representative of Iraq took the trouble to compare the situation of the Iraqi people with that of the Kuwaiti people, he would reach more accurate conclusions.

67. Mr. CHABALA (Zambia), speaking in exercise of the right of reply, said that the labour movement had always played an important role in the political life of Zambia before and after Zambia's independence and that that role reflected the country's high degree of commitment to human rights and fundamental freedoms. Contrary to what had been stated by the representative of the International Confederation of Free Trade Unions, the new Industrial Relations Act, recently adopted by the Zambian Government, symbolized the strengthening of the individual and collective human rights of workers and employers. First, it provided protection against the previous system of compulsory affiliation of workers to the Zambian Congress of Trade Unions and of employers to the Zambian Federation of Employers. Second, it abolished the policy of one union in one industry, which had been contrary to freedom of association. Third, it permitted all individuals to join unions of their choice and political parties of their choice, since the multiparty system had been reintroduced. Fourth, it institutionalized tripartite consultations and authorized workers to go on strike after a ballot. The Industrial Relations Court would continue to be an arbiter in industrial disputes. It was evident that the new Act was not an attack on basic trade union freedoms and was not an attempt by the Zambian Government to halt and reverse the trend towards greater respect for human rights in Zambia. On the contrary, its basic goal was to enhance the exercise of human rights and basic trade union freedoms.

68. Mr. ABU-OSHBA (Observer for Saudi Arabia), speaking in exercise of the right of reply, noted that, although Iraq had repeatedly used its right of reply to level criticism in all directions, it had no valid arguments to refute the facts that had been presented to the Commission. Indeed it could not deny the violations committed and ill-treatment meted out by the Iraqi forces in Kuwait, of which everyone was aware. Although Iraq had acceded to international human rights instruments it was certainly not in a position to speak of human rights. Saudi Arabia had perhaps not signed those instruments for it had reservations concerning some of their provisions, but at least it respected Islamic law. He would also stress that Saudi Arabia had acted legitimately, as a sovereign country, by asking friendly and Muslim countries to help it confront the aggression of the Iraqi régime against a friendly and peaceful country, Kuwait.

69. Mrs. MALIYABWANA (Observer for Zaire), speaking in exercise of the right of reply, said she was outraged by the groundless accusations of the representative of the Inter-African Union of Lawyers against her country. The case based on assumptions that the Union had been concocting against the Zairian Government concerning the incidents that had occurred in May 1990 at Lumbumbashi University was all the more surprising because the Zairian Government had provided the clarifications requested, opened an inquiry into those events and asked all citizens and all relatives to communicate to the judicial authorities any information that might help them establish the truth. The Zairian Government was determined to get to the bottom of that matter, which had considerably stirred up both national and international public opinion, and it was now for the judiciary, and the judiciary alone, to come to a decision and render its verdict.

70. Referring to the previously-mentioned arrests of demonstrators, she stressed that the goals of democracy could be attained only when individual and public freedoms were exercised with strict respect for legality and law and order. All persons who broke the law and caused a breach of the peace, therefore, must answer for their acts in accordance with established procedures. Regarding the violation of the domicile of certain political leaders, her delegation assured the representative of the Inter-African Union of Lawyers that the Zairian authorities were as much concerned as he by such acts of violence, and hoped that their perpetrators would be speedily identified and prevented from doing further harm. A judicial investigation could at times be long and not necessarily successful, but what was important was the State's concern to provide all individuals with the protection they were entitled to expect from it.

71. Mr. SATER (Observer for Bahrain) said he wondered whether the representative of Iraq, who had stated that the Permanent Representative of Bahrain to the United Nations had been recalled to Bahrain five months earlier and was at present imprisoned there, had not lost his mind.

72. Mr. AL-KADHI (Iraq), speaking on a point of order, protested against the improper language used by the Observer for Bahrain which should not be directed at a member of the Commission. He requested the Chairman to explain to the Observer for Bahrain the need for decorum.

73. The CHAIRMAN asked the Observer for Bahrain to confine himself to the substantive aspect of the issue and to refrain from using any expression that might be found offensive.

74. Mr. SATER (Observer for Bahrain) noted that the appointment or transfer of an ambassador was a question relating to the sovereignty of the State of Bahrain, and that no person or country, including Iraq, was entitled to interfere. That having been said, he explained that the Permanent Representative of Bahrain to the United Nations Office at Geneva had in fact been recalled to Bahrain on 21 October 1990, that his family had followed him shortly thereafter and that he was at present assigned to the Ministry of Foreign Affairs and had remained in contact with his Geneva colleagues. The representative of Iraq was free to verify those facts, if he wished, by telephoning the former Ambassador at his office in the Ministry of Foreign Affairs.

75. Mr. BLACKWELL (United States of America), speaking in exercise of the right of reply, said that the massive violations of human rights committed in Kuwait were the work not of the Allied forces, as the representative of Iraq had said, but of the Iraqi forces. It was Saddam Hussein who, after taking power by assassination, gassing the Kurds, leaving hundreds of thousands dead in the war against Iran and oppressing his people by denying human rights and fundamental freedoms, had plunged the world into war by invading and occupying Kuwait. Although Saddam Hussein claimed to be defending Islam, the Arab nations themselves condemned him. At a time when the atrocities committed by the Iraqi forces in Kuwait had become more systematic and terrifying, it was worth remembering words spoken before the League of Nations in 1936 by Emperor Haile Selassie, who had seen the world watch and do nothing while his country was conquered and occupied: "God and history will remember your judgment". History had just given the community of nations a second chance to prevent evil from triumphing. By fighting Saddam Hussein to liberate Kuwait and restore that country's legitimate Government the international community had made the right choice, the moral choice that would be vindicated by posterity. God and history would remember its judgment.

76. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, said that God, history and future generations would judge the aggression committed by the United States against Iraq. Iraq had agreed to withdraw from Kuwait; it had accepted the Soviet peace initiative to end the war, but the United States had chosen the immoral path, that of war, and must take responsibility for all the consequences of that choice.

The meeting rose at 1.10 p.m.